

RECEIVED
CENTRAL FAX CENTER

IN RE THE APPLICATION OF: Sherry Fox and Allen M. Sudduth

SERIAL NO. : 10/791,653
 DATE FILED : March 2, 2004
 FOR : METHOD AND APPARATUS FOR TREATING ERECTILE SEXUAL DYSFUNCTION USING LIGHT ENERGY

SEP 12 2007

Mail Stop Amendment
 Director of the U.S. Patent and Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450

SIR:

TRANSMITTED HEREWITH ARE THE FOLLOWING:

Authorization and Request for One Month Extension of Time and Ratification of Previously-Filed Response

FEES HAVE BEEN CALCULATED AS SHOWN BELOW:

	(COL. 1) CLAIMS REMAINING AFTER AMENDMENT	(COL. 2) HIGHEST NO. PREVIOUSLY PAID FOR	(COL. 3) PRESENT EXTRA	SMALL ENTITY			LARGE ENTITY		
				RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE	
TOTAL:	*31	-	31	**0	X \$25 =	\$0.00	OR	X \$50 =	\$0.00
INDEP:	*2	-	3	***0	X \$100 =	\$0.00	OR	X \$200 =	\$0.00
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS				+ \$180 =		OR	+ \$360 =		
ADDITIONAL FEES				TOTAL:	\$0.00	OR	TOTAL:	\$0.00	

*IF THE ENTRY IN COL. 1 IS LESS THAN THE ENTRY IN COL. 2, WRITE "0" IN COL. 3.

**IF THE "HIGHEST NUMBER PREVIOUSLY PAID FOR" IN THIS SPACE IS LESS THAN 20, WRITE "20" IN THIS SPACE.

***IF THE "HIGHEST NUMBER PREVIOUSLY PAID FOR" IN THIS SPACE IS LESS THAN 3, WRITE "3" IN THIS SPACE.

THE "HIGHEST NUMBER PREVIOUSLY PAID FOR" (TOTAL OR INDEPENDENT) IS THE HIGHEST NUMBER FOUND FROM THE EQUIVALENT BOX IN COL. 1 OF A PRIOR AMENDMENT OR THE NUMBER OF CLAIMS ORIGINALLY FILED.

A CHECK IN THE AMOUNT OF \$ _____ FOR THE ADDITIONAL FEES IS ENCLOSED.

A CHECK IN THE AMOUNT OF \$ _____ TO COVER THE PETITION FEE IS ENCLOSED.

A CHECK IN THE AMOUNT OF \$ _____ FOR THE ADDITIONAL FEES AND PETITION FEE IS ENCLOSED.

THE DIRECTOR IS HEREBY AUTHORIZED TO CHARGE PAYMENT OF THE FOLLOWING FEES ASSOCIATED WITH THIS COMMUNICATION TO DEPOSIT ACCOUNT NO. 12-1087. A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

ANY FILING FEES UNDER 37 CFR 1.16 FOR THE PRESENTATION OF EXTRA CLAIMS.

ANY PATENT APPLICATION PROCESSING FEES UNDER 37 CFR 1.17.

Dated at Greenwood Village, Colorado, this 12th day of September, 2007.

Respectfully submitted,



John R. Ley
 Registration No. 27,453
 ATTORNEY FOR APPLICANT

JOHN R. LEY, LLC
 5299 DTC Blvd., Suite 610
 Greenwood Village, Colorado 80111-3327
 Telephone: (303) 740-9000
 Facsimile: (303) 740-9042

Customer No. 28785

RECEIVED
CENTRAL FAX CENTER

SEP 12 2007

PATENT
Attorney Docket No. 270.301

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Sherry Fox
Serial No. : 10/791,653
Filed : March 2, 2004
Title : Method and Apparatus for Treating Erectile Sexual
Dysfunction Using Light Energy

Group Art Unit : 3735
Confirmation No. : 2707
Examiner : Farah, Ahmed M.

**Authorization and Request for One Month Extension of Time
and Ratification of Previously-Filed Response**

Mail Stop Amendment
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned attorney of record for the above identified application hereby ratifies and requests that the response letter dated August 14, 2007, submitted by an inventor and the representative of the assignee of this application, be considered as responsive to the office action of May 17, 2007. The status of the signatory to the August 14 letter is shown on that letter, and the assignment of this invention to the assignee is recorded at reel/frame 015435/0646.

A copy of the August 14 response letter, including a copy of the return receipt indicating receipt by the US PTO on August 23, 2007, is attached hereto.

This paper also constitutes a request for a one month extension of time to respond to the May 17, 2007 office action, thereby extending the time for response to and including September 17, 2007, if the US PTO considers the August 14 response letter not to have been received on a timely basis. This paper also constitutes

Serial No. 10/791,653

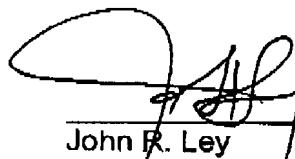
authorization to charge the undersigned's **deposit account 12-1087** for the cost of the one month extension of time for a small entity.

The Examiner is encouraged to contact the undersigned to attempt to resolve any issue which would advance examination.

Respectfully submitted,

9/12/07

Date



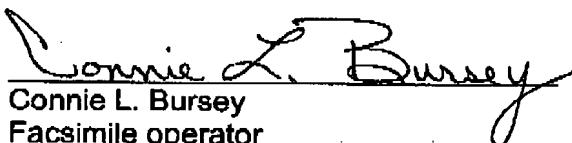
John R. Ley
Registration No. 27,453
ATTORNEY FOR APPLICANT

Customer No. 28785

JOHN R. LEY, LLC
5299 DTC Boulevard, Suite 610
Greenwood Village, Colorado 80111-3327
Telephone: (303) 740-9000
Facsimile: (303) 740-9042

Certificate of Filing by Facsimile Transmission

The undersigned hereby certifies that the foregoing **Authorization and Request for One Month Extension of Time and Ratification of Previously-Filed Response** including the attached transmittal letter showing that no additional fees are required, are being transmitted by facsimile to the United States Patent and Trademark Office, at the Central PTO facsimile number 571 273 8300, this 12th day of September, 2007.


Connie L. Bursey
Facsimile operator

RECEIVED
CENTRAL FAX CENTER

August 14, 2007

SEP 12 2007

Sherry Fox
BioCare Systems, Inc.
9853 Paperflower Drive
Parker, CO 80138

Ahmed M Farah
Primary Examiner
Art Unit 3785
U.S. Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application Serial No. 10/791,653
METHOD AND APPARATUS FOR TREATING ERECTILE SEXUAL DYSFUNCTION USING
LIGHT ENERGY

Dear Mr. Farah,

Below is my response to the issues you raise concerning my patent application (application number 10/791,653; docket number 270.301). The following points distinguish my patent application as unique and different from those cited in your correspondence dated May 14, 2007.

- I. Regarding Sheinman, et al., Patent no. 6,241,752; "Method of treating for impotence and apparatus particularly useful in such method"
 - a. The Sheinman patent relegated to lasers
 - i. Our application is with light emitting diodes (LEDs).
 - ii. Thus our application addresses a completely different apparatus and method of light delivery from Sheinman.
 - b. The Sheinman patent monochromatic
 - i. Our application is polychromatic centering around wavelengths of 884 nanometers.
 - ii. Thus our application consists of a different method and application of light from Sheinman.
 - c. The Sheinman patent provides a point of application which is moved along the length of the penis
 - i. Our application exposes the entire penis at one time.
 - ii. Thus our application consists of a different method and application of light with material and unique differences in tissue exposure and time to achieve said exposure as compared to Sheinman.
 - d. The Sheinman patent consists of a mechanical and light emitting apparatus for treatment of tissues, physically moving the light source in order to move the point of contact of the monochromatic laser light beam along the genital tissue.
 - i. Our application consists of a mechanically static apparatus which floods the genitalia with a geographically broad exposure of polychromatic infrared light.
 - ii. Thus our application consists of a materially and uniquely different apparatus for delivery (static vs mechanically moved) of a different type of light (polychromatic vs monochromatic) compared to that of Sheinmen.
 - e. The Sheinman patent addresses only male erectile dysfunction.
 - i. Our application also addresses Female sexual dysfunction through application of light energy to erectile tissues (eg, labia minora, clitoral

tissues and other surrounding tissues which require sanguineous engorgement of tissues) necessary for sexual response.

- II. Regarding BOUTOS Patent no. 5,571,118; "Apparatus for stimulating penile, scrotal, anal, vaginal and clitoral tissue"
 - a. The BOUTOS patent employs electrical current to achieve desired effects
 - i. Our patent employs light energy of infrared and near infrared wavelengths to achieve female and male sexual response.
 - ii. Thus our application consists of an entirely different and unique method and apparatus for achieving sexual response from genital tissues as compared to BOUTOS (ie, light energy vs electrical current).
 - b. The BOUTOS patent employs a mechanism of action of direct electrical stimulation of electrically conductive nerve pathways in human tissues in order to bring about treatment benefits.
 - i. Our application employs a mechanism of action of light stimulation of tissue causing release of endogenous nitric oxide, which in turn, causes relaxation of vasculature resulting in sanguineous engorgement of genital tissues.
 - ii. Thus our application employs an entirely unique and different mechanism of action to achieve treatment goals of sexual response.
 - c. The BOUTOS patent relies on direct electrical stimulation of nervous pathways to achieve orgasm from tissues.
 - i. Our application relies on enabling response to normal, natural or other physical stimulation of genital tissues to achieve orgasm. This is achieved through light energy stimulated release of endogenous nitric oxide in genital vasculature resulting in vasodilation and enablement of a natural response to normal sexual activity.
 - ii. Thus our application uniquely and materially differs from BOUTOS in enabling a natural sexual response in tissue compared to direct and artificial nervous stimulation through outside application of electrical nerve signaling.

I would therefore request that the U.S. Patent and Trademark Office proceed with my patent application on the basis of its uniqueness and usefulness.

Sincerely,

Sherry Fox
President & CEO
BioCare Systems, Inc.
9853 Paperflower Drive
Parker, CO 80138

T: 303-796-8565
Fax: 303-265-9108

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2 and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Attorney</p> <p>B. Received by / Printed Name: _____</p> <p>C. Date of Delivery: _____</p> <p>D. Is delivery restricted? <input type="checkbox"/> Yes If Yes, enter delivery instructions below: _____</p> <p>AUG 23 2007</p> <p>E. Service Type: _____</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>F. Restricted Delivery? <input type="checkbox"/> Form Fee: <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to:</p> <p>Ahmed Farah P.O. Box 3785 U.S. Patent Office Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p>		<p>2. Article Number (Master from service label): 7007 0710 0004 4446 3702</p>	

PS Form 3871, February 2004

Postage Due Receipt

10298304 M-102

The UPS Store - #1548
10940 S. PARKER RD.
PARKER, CO 80134-7440
(303) 841-8483

08/15/07 04:13 PM

We are the one stop for all your
shipping, postal and business needs.

This is your mail!
Secure Mail receiving available HERE!



001 500131 (022)	T2 \$ 9.80
Cart / Return	
002 000007 (022)	T2 \$ 0.85
First Class Letter	

SubTotal \$ 10.15
Total \$ 10.15

Cash \$ 20.15
Change \$ 10.00

Receipt ID: 8937084224920188831 002 Items
CSH: Key Tran: 3246 Reg: 003

Thank you for visiting our store.
Track your package at www.theupsstore.com

Whatever your business and personal